

**ASSEMBLY BILL**

**No. 2321**

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**Introduced by Assembly Member Rodriguez**

February 18, 2016

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An act to amend Section 38211 of the Vehicle Code, and to amend Section 6293 of the Revenue and Taxation Code, relating to off-highway vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2321, as introduced, Rodriguez. Off-highway vehicles: transfers of title or interest: use tax.

Existing law requires the Department of Motor Vehicles to withhold identification of, or the transfer of ownership, of any off-highway vehicle subject to identification until the applicant for identification pays to the department the use tax measured by the sales price of the vehicle as required by the Sales and Use Tax Law, together with penalty, except as specified. Existing law requires the department to transmit all collections of use tax and penalty to the State Board of Equalization.

This bill would require, in addition, that the department determine all local use taxes the applicant is responsible to pay by specific address data provided by the applicant, and where the vehicle is to be registered. The bill would require the department to transmit the address data to the board, and would make the data subject to specified information sharing provisions. This bill would require the board to allocate the use taxes transmitted by the department to the jurisdiction where the purchaser registers the purchased vehicle by the specific address data provided to the board by the department.

This bill would declare the intent of the Legislature that the department and the board administer the provisions relating to identification of

off-highway vehicles in a manner that ensures that applicable local sales taxes and local transaction and use taxes are collected and then remitted to the specific jurisdiction where the vehicle is registered.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 38211 of the Vehicle Code is amended  
2 to read:

3 38211. (a) The department shall withhold identification of or  
4 the transfer of ownership of any vehicle subject to identification  
5 under this division until the applicant pays to the department the  
6 use tax measured by the sales price of the vehicle as required by  
7 the Sales and Use Tax Law, together with penalty, if any, unless  
8 the purchaser presents evidence on a form prescribed by the State  
9 Board of Equalization that sales tax will be paid by the seller or  
10 that use tax has been collected by the seller or that the State Board  
11 of Equalization finds that no use tax is due. If the applicant so  
12 desires, he *or she* may pay the use tax and penalty, if any, to the  
13 department so as to secure immediate action upon his *or her*  
14 application for identification or transfer of ownership, and  
15 thereafter he *or she* may apply through the Department of Motor  
16 Vehicles to the State Board of Equalization under ~~the provisions~~  
17 ~~of the Sales and Use Tax Law for a refund of the amount so paid.~~

18 *(b) If applicable, the department shall determine all local use*  
19 *taxes that the applicant is responsible to pay by specific address*  
20 *data provided by the applicant and to which the vehicle shall be*  
21 *registered. The department shall utilize all available tools,*  
22 *including those available through the State Board of Equalization,*  
23 *to determine the correct use tax rates to apply to the applicant.*

24 ~~(b)~~

25 *(c) The department shall transmit to the State Board of*  
26 *Equalization all collections of use tax and penalty made under this*  
27 *section. section to the State Board of Equalization. The department*  
28 *also shall collect and transmit to the board specific address data*  
29 *provided by applicants upon application and to which a purchased*  
30 *vehicle will be registered, for proper allocation of use tax*  
31 *collections. The transmitted data shall be subject to the*  
32 *requirements of Section 7056 of the Revenue and Taxation Code.*

1 This transmittal shall be made at least monthly, accompanied by  
2 a schedule in ~~such form as~~ *the form that* the department and board  
3 may prescribe.

4 ~~(e)~~

5 (d) The State Board of Equalization shall reimburse the  
6 department for its costs incurred in carrying out the provisions of  
7 this section. ~~Such~~ *The* reimbursement shall be effected under  
8 agreement between the agencies, approved by the Department of  
9 Finance.

10 ~~(d)~~

11 (e) In computing any use tax or penalty ~~thereon under the~~  
12 ~~provisions of this section~~ *under this section*, dollar fractions shall  
13 be disregarded in the manner specified in Section ~~9559 of this~~  
14 ~~code.~~ 9559. Payment of tax and penalty on this basis shall be  
15 deemed full compliance with the requirements of the Sales and  
16 Use Tax Law *and local transaction and use tax law* insofar as they  
17 are applicable to the use of vehicles to which this section relates.

18 (f) *It is the intent of the Legislature that the department and the*  
19 *State Board of Equalization administer this part in a manner that*  
20 *ensures that applicable Bradley-Burns uniform local sales taxes*  
21 *and local transaction and use taxes are collected and then remitted*  
22 *to the specific jurisdiction where the vehicle is registered.*

23 SEC. 2. Section 6293 of the Revenue and Taxation Code is  
24 amended to read:

25 6293. (a) Except when the sale is by lease, when a vehicle  
26 subject to identification under Division 16.5 (commencing with  
27 Section 38000) of the Vehicle Code or a vehicle that qualifies  
28 under the permanent trailer identification plate program pursuant  
29 to subdivision (a) of Section 5014.1 of the Vehicle Code, is sold  
30 at retail by other than a person licensed or certificated pursuant to  
31 the Vehicle Code as a manufacturer, remanufacturer, dealer,  
32 dismantler, or lessor-retailer, subject to Section 11615.5 of the  
33 Vehicle Code, or a person required to hold a seller's permit  
34 pursuant to Article 2 (commencing with Section 6066) of Chapter  
35 2 by reason of the number, scope, and character of his or her sales  
36 of those vehicles, the retailer is not required or authorized to collect  
37 the use tax from the purchaser, but the purchaser of the vehicle  
38 shall pay the use tax to the Department of Motor Vehicles acting  
39 for and on behalf of the board pursuant to Section 38211 of the  
40 Vehicle Code.

1 (b) If the purchaser makes an application to that department  
2 ~~which~~ *that* is not timely, and is subject to penalty because of  
3 delinquency in effecting identification or transfer of ownership of  
4 the vehicle, he or she then becomes liable also for penalty as  
5 specified in Section 6591 ~~of this code~~, but no interest shall accrue.

6 (c) Application to that department by the purchaser relieves the  
7 purchaser of the obligation to file a return with the board under  
8 Section 6452.

9 (d) If the purchaser does not make application to that  
10 department, or does not pay the amount of use tax due, or files a  
11 return with the board under Section 6455 ~~which~~ *that* is not timely,  
12 interest and penalties shall apply with respect to the unpaid amount  
13 as provided in Chapter 5 (commencing with Section 6451).

14 (e) *Use taxes collected by the Department of Motor Vehicles*  
15 *and transmitted to the board pursuant to Section 38211 of the*  
16 *Vehicle Code shall be allocated to the jurisdiction where the*  
17 *purchaser registers the purchased vehicle, by the specific address*  
18 *data provided to the board by the Department of Motor Vehicles.*  
19 *The board shall reimburse the Department of Motor Vehicles as*  
20 *prescribed in subdivision (d) of Section 38211 of the Vehicle Code.*